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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton, Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Access Charge Reform
CC Docket No. 96-262

Dear Mr. Caton:

On behalf of LCI International Telecom Corp., please take notice that on February 4, 1997, Anne K. Bingaman met with Commissioner Chong regarding the above mentioned docket. In addition, the attached document was discussed at those meetings.

In accordance with Section 1.1206 of the Commission's rules, an original and one copy of this notice and attachment are provide for inclusion in the public record.

Sincerely,

Douglas W. Kinkoph

Attachment

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February 4, 1997

Anne K. Bingaman
Sr. Corp. V.P., LCI International, Inc.
President, LCI Local Services Division
(703) 610-4877

MAJOR ISSUES IN ACCESS CHARGE REFORM

I. Access charges were created as, and remain, a subsidy.

It is important to note that **access charges by their very nature are prescriptive**; they were prescribed by the FCC 14 years ago as an explicit subsidy to make the RBOC's "whole." **So long as the RBOC's were not in long distance, access charges** raised costs to consumers, but **did not create an unfair competitive advantage** for any one set of market players.

- Now, however, **with the RBOC's potential entry into long distance, if RBOC's can continue to collect access charges, while competitors have no meaningful way to avoid those charges, then access charges will become nothing more than a $10 billion honey pot for the RBOC's** to use **to cross-subsidize their own long distance services**, while depriving long distance companies of badly-needed revenue to build competitive local services networks.

- **Such a result would allow the RBOC's to re-create the old AT&T** vertically-integrated system, **paid for by access charge subsidies collected from their long distance competitors.**

II. For the most part, the FCC has adopted the policies necessary to open the market, but a concerted, extended effort will be necessary to implement these policies and see real competition develop.

- **The principal goal of the Commission should be to open the incumbent's local network to support multiple vendors.** The existing network is simply so vast that no entrant, much less the multiple entrants needed for vibrant competition, will be able to duplicate it any time soon.

- **Restructuring the market for competition is not a short term, quick fix,** proposition. Prices must be established, switching software updated, and new operational systems will be necessary to support multiple carriers offering service over the same underlying network. These actions necessary to establish local competition parallel many of the actions which implemented divestiture: modifying switches to support a competitive market, new operating systems, new prices for network use, etc.

III. Meaningful market based access reform is not possible in the market as it exists today.

The FCC has proposed a "market-based" approach to access reform. Such a **market-based approach can work only if a truly competitive market for access exists--i.e., if there is a way for the RBOC's local competitors to avoid paying access charges** to them.

- **There is no such competitive market today.**

- **Such a market will exist** only **when competitors can order** from RBOC's **unbundled combined elements at cost on a seamless, instantaneous basis**, in tens of thousands of daily orders. Before a functioning competitive local market exists, **it must be as easy to order unbundled combined elements as it is today to order long distance access, and as easy to change local telephone service providers as it is today to change long distance providers.**

IV. To create a truly competitive local service market, unbundled network element combinations at cost must be readily available.

The Telecommunications Act of 1996, and the FCC's Section 251 Implementing Order, represent a major step forward in creating a competitive local market. **Much more needs to happen** in the market, however, before that market is a reality. **Today**, it is a fact that:

- **no RBOC has in place systems and processes to seamlessly and instantaneously provision unbundled combined network elements;**

- **the legal right to such unbundled combined network elements is being challenged by the RBOC's** in the Eighth Circuit and in several states; and.

- **even simple resale**, which is no substitute at all for cost-based unbundled combined network elements, **is in its infancy insofar as provisioning is concerned**, with different EDI and fax-based systems applied by different RBOC's, and badly understaffed support for taking even simple resale orders. Excess access profits are retained by the RBOC's.

- **service-resale may permit relatively "rapid" entry, but it will not sustain competition**, particularly if the Commission leaves access charges in place. With service-resale:

  - **the entrant is limited to reoffering services of the LEC's design,** including the LEC's local calling area.

  - **the entrant cannot drive prices to economic cost because it is limited to the wholesale margin based on avoided retail costs. As a result, RBOC continues to recover costs of inefficiency and strategic investments.**

V. A competitive market will not develop, and the FCC's "market-based" approach to access reform cannot succeed, if the RBOCs are allowed into long distance prior to providing instantly available unbundled network elements.

In Section 271 (b) (ii) of the Telecommunications Act, **(the "Competitive Checklist"), the Congress specifically tied the RBOC's long distance entry to "nondiscriminatory access to network elements...."** This requirement was intended to create a competitive local market, and is critical to doing so.

- **If the FCC follows the "market-based" approach laid out in the Access Reform NPRM, the agency must explicitly recognize the interconnected nature of nondiscriminatory access to network elements and Section 271 long distance entry**, by making fulfillment of an expanded and explicated version of item (ii) of the Competitive Checklist an explicit and detailed requirement to long distance entry. If it does so, then cost-based competition from sale of unbundled combined network elements can occur, which will provide the truly competitive local services market essential to the success of a "market-based" approach to access charge reform.

The minimal conditions necessary for network-element based competition to flourish include:

- The local switch is the heart of local competition: this is where services are defined and revenues are created. **A local switching network element must be implemented which:**

  - **enables the entrant to designate features/functions on the lines of its subscribers,**
  - **permits the entrant to use the LEC interoffice network for termination of calls in the same manner as one incumbent, and**
  - **ultimately provides entrant the ability to use different routing tables** for its customers than the incumbent

- **LEC switches and support systems must be modified to support multiple local providers in the same manner that such switches and systems were modified to reflect multiple long distance carriers a decade ago.**

- **Local switching must be combinable with other basic ingredients (loops and transport) obtained from the LEC.**

  - **In the short term, the LEC is the only network and if carriers cannot purchase all the ingredients (network elements) needed to become local carriers, local competition will develop only in narrow areas.**

  - **In the long term, local facilities ownership cannot become a predicate to market participation or the industry will become unnecessarily concentrated with a loss of competitive diversity.**

- **Network element-based entrants must be able to provide both local exchange and exchange access services to their subscribers.** By becoming complete telephone providers, entrants should be able to drive inefficiencies and excess profits from both local and toll prices (with the following significant caveat concerning access and toll prices below).

- **If the RBOC's are allowed into long distance BEFORE they have created seamless and instantaneous nondiscriminatory access to unbundled combined network elements at cost for competitors, long years of litigation will ensue before competitors have the right which item (ii) of the Checklist explicitly gives them.**

- **If this were to occur the FCC's suggested "market-based" approach to access charge reform inevitably will fail, since the widescale and ubiquitous cost-based local competition needed to drive access charges to cost will not exist.**

VI. Even if instantaneous access to unbundled network elements is required prior to long distance entry, potentially laying the groundwork for "market-based" access reform, a prescriptive approach is needed for terminating access, where no competition can occur.

If a competitive market has been created by fully functioning, nondiscriminatory access to unbundled network elements before the RBOC's are allowed into long distance under Section 271, then **competitors will have a way to avoid access charges** otherwise levied by the RBOC's on originating calls, and the FCC's model for a market-based approach to access reform can work, as to originating access.

- **if the FCC does not detail at length the requirements for nondiscriminatory access to unbundled network elements as a predicate for 271 long distance entry, then it has no choice but to prescribe both originating and terminating access charges in order to avoid giving the RBOC's a huge subsidy** from their competitors, **which can and will be used to destroy competition in the long distance market.**

- **as to terminating access, the FCC should adopt the same kind of "prescriptive" approach it used in 1983 to create the original access charges, by reducing terminating access charges to TELRIC cost. This is because there is no meaningful competition for terminating access that can occur,** by the very nature of terminating access--no company can control the termination point of its' customers calls. Accordingly, terminating access charges should immediately be brought to TELRIC cost-based levels by the FCC's access reform order.